

§ 7.42

FOIA and the Privacy Act, DOT determines the fees for records in DOT Privacy Act systems of record in accordance with the Privacy Act (as implemented by DOT regulations at 49 CFR part 10) rather than the FOIA.

(d) When DOT aggregates requests made under subpart C (see § 7.34(d)), DOT apportions fees as set forth in § 7.43(b).

(e) As a special service, DOT may certify copies of records made available under subpart B or released under subpart C, upon request and payment of the applicable fee: with the DOT seal (where authorized)—US \$10; or true copy, without seal—US \$5. Certified copies can be requested by contacting the applicable FOIA Requester Service Center (see § 7.27) or the DOT Dockets Office identified in § 7.12(b)(1).

(f) DOT makes transcripts of hearings or oral arguments available for inspection only. If transcripts are prepared by a nongovernmental contractor and the contract permits DOT to handle the reproduction of further copies, DOT assesses duplication fees as set forth in § 7.42(d). If the contract for transcription services reserves the sales privilege to the reporting service, any duplicate copies must be purchased directly from the reporting service.

(g) In the interest of making documents of general interest publicly available at as low a cost as possible, DOT arranges alternative sources whenever possible. In appropriate instances, material that is published and offered for sale may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-0001; U.S. Department of Commerce's National Technical Information Service (NTIS), Springfield, VA 22151; or National Audio-Visual Center, National Archives and Records Administration, Capital Heights, MD 20743-3701.

§ 7.42 What is DOT's fee schedule for records requested under subpart C of this part?

(a) DOT calculates the hourly rates for manual searching, computer operator/programmer time, and time spent reviewing records, when performed by employees, based on the grades and rates in the General Schedule Locality

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Pay Table for the Locality of Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA, or equivalent grades, plus 16% to cover fringe benefits, as follows:

(1) GS-1 through GS-8 (or equivalent)—Hourly rate of GS-5 step 7 plus 16%;

(2) GS-9 through GS-12 (or equivalent)—Hourly rate of GS-10 step 7 plus 16%;

(3) GS-13 through GS-14 (or equivalent)—Hourly rate of GS-13 step 7 plus 16%; and

(4) GS-15 and above (or equivalent)—Hourly rate of GS-15 step 7 plus 16%.

(b) DOT determines the standard fee for a manual or electronic search to locate records by multiplying the searcher's hourly rate as set forth in paragraph (a) of this section by the time spent conducting the search.

(c) DOT's standard fee for review of records is the reviewer's rate set forth in paragraph (a) of this section, multiplied by the time the reviewer spent determining whether the located records are responsive to the request and whether the responsive records or segregable portions are exempt from disclosure, as explained in paragraphs (h), (i), and (j) of this section.

(d) DOT determines the standard fee for duplication of records as follows:

(1) Per copy of each page (not larger than 8.5 × 14 inches) reproduced by photocopy or similar means (includes costs of personnel and equipment)—US \$0.10.

(2) Per copy prepared by any other method of duplication—actual direct cost of production.

(e) If DOT utilizes a contractor to perform any services described in this section, the standard fee is based on the equivalent hourly rate(s). DOT does not utilize contractors to discharge responsibilities that only DOT may discharge under the FOIA.

(f) In some cases, depending upon the category of requester and the use for which the records are requested, the fees computed in accordance with the standard fee schedule in paragraphs (a) through (e) of this section are either reduced or not charged, as prescribed by other provisions of this subpart.

(g) For purposes of fees only, there are four categories of FOIA requests:

(1) Requests submitted by a commercial entity and/or for a commercial use;

(2) Requests submitted by an educational or noncommercial scientific institution whose purpose is scholarly or scientific research (and not for a commercial use);

(3) Requests submitted by a representative of the news media; and

(4) All other requests.

(h) When records are requested by a commercial requester and/or for a commercial use, the fees assessed are reasonable standard charges for document search, duplication, and review.

(i) When records are requested by an educational or noncommercial scientific institution whose purpose is scholarly or scientific research or by a representative of the news media (i.e., for a non-commercial use), fees are limited to reasonable standard charges for document duplication.

(j) For any request not described in paragraph (h) or (i) of this section, fees are limited to reasonable standard charges for document search and duplication.

(k) Fees under this subpart do not apply to any special study, special statistical compilation, table, or other record requested under 49 U.S.C. 329(c). The fee for the performance of such a service is the actual cost of the work involved in compiling the record. All such fees received by DOT in payment of the cost of such work are deposited in a separate account administered under the direction of the Secretary, and may be used for the ordinary expenses incidental to providing the information.

§ 7.43 When are fees waived or reduced for records requested under subpart C of this part?

(a) DOT does not charge fees to any requester making a request under subpart C of this part for the following services:

(1) Services for which the total amount of fees that could be charged for the particular request (or aggregation of requests) is less than US \$20, after taking into account all services that must be provided free of charge or at a reduced charge.

(2) The first two hours of search time, unless the records are requested for commercial use.

(3) Duplication of the first 100 pages (standard paper, not larger than 8.5×14 inches) of records, unless the records are requested for commercial use.

(4) Review time spent determining whether a record is exempt from disclosure, unless the record is requested for commercial use. DOT does not charge for review time except with respect to an initial review to determine the applicability of a particular exemption to a particular record or portion of a record. DOT does not charge for review at the administrative appeal level. However, when records or portions of records withheld under an exemption that is subsequently determined not to apply are reviewed again to determine the applicability of other exemptions not previously considered, this is considered an initial review for purposes of assessing a review charge.

(b) When DOT aggregates requests as provided in § 7.34(d), DOT charges each requester a ratable portion of the fees charged for combined services rendered on behalf of all requesters.

(c) DOT waives or reduces the fees described in § 7.42(i) and (j) when the requester makes a fee waiver or reduction request as provided in § 7.24(b) and establishes that disclosure of the information is in the public interest as provided in 5 U.S.C. 552 and this paragraph, and the DOT official having initial denial authority determines that disclosure of the information is in the public interest and is not primarily in the commercial interest of the requester. The requester must establish all of the following factors to DOT's satisfaction to show that the request is in the public interest:

(1) That the subject matter of the requested records concerns the operations or activities of the Federal Government;

(2) That the disclosure is likely to contribute to an understanding of Federal Government operations or activities;

(3) That disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the understanding of the individual requester or a narrow segment